



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,899	01/14/2004	Won-Pyo Park	678-1167	4765
66547 7590 09/04/2009 THE FARRELL LAW FIRM, LLP 290 Broadhollow Road Suite 210E Melville, NY 11747				
EXAMINER				
RAMAKRISHNALAH, MELUR				
ART UNIT		PAPER NUMBER		
2614				
MAIL DATE		DELIVERY MODE		
09/04/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WON-PYO PARK

Appeal 2008-004259
Application 10/757,899¹
Technology Center 2600

Decided: September 4, 2009

Before JOSEPH F. RUGGIERO, MAHSHID D. SAADAT, and SCOTT R.
BOALICK, *Administrative Patent Judges*.

BOALICK, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from the final rejection of claims 1-14, all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ Application filed January 14, 2004. The real party in interest is Samsung Electronics Co, Ltd.

STATEMENT OF THE CASE

Appellant's invention relates to a system and method for storing image data from the camera of a mobile device with wireless access to the Internet. (Spec. 1:10-13; Abstract.) The image data may be transmitted in real time to a remotely-located storage space via the wireless Internet connection. (Spec. 3:4-8.)

Claim 1 is exemplary:

1. A method for storing data of a mobile communication terminal having a wireless access to the Internet, the terminal including a camera, memory, and an image processing unit for processing images captured by the camera to generate image data, the method comprising the steps of:

a) detecting an image data storage mode when the camera starts an image capturing operation;

b) determining whether to use wireless access to the Internet according to the detected image data storage mode;

c) performing a wireless access to the Internet according to the determination result; and

d) transmitting in real time image data generated by the image processing unit to a remotely-located file storage device having a memory via the wireless access to the Internet.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Obradovich	2002/0013815 A1	Jan. 31, 2002
Fukuda	2003/0012156 A1	Jan. 16, 2003
Sellen	2003/0011682 A1	Jan. 16, 2003

Makishima JP 2001/128113 May 11, 2001

Claims 1 and 4-6 stand rejected under 35 U.S.C. § 103(a) as being obvious over Makishima and Obradovich.

Claims 2 and 3 stand rejected under 35 U.S.C. § 103(a) as being obvious over Makishima, Obradovich, and Fukuda.

Claims 11-14 stand rejected under 35 U.S.C. § 103(a) as being obvious over Makishima, Obradovich, and Fukuda.

Claims 7-10 stand rejected under 35 U.S.C. § 103(a) as being obvious over Makishima, Obradovich, and Sellen.

Except as noted in this decision, Appellant has not presented any substantive arguments directed separately to the patentability of the dependent claims or related claims in each group. In the absence of a separate argument with respect to those claims, they stand or fall with the representative independent claim. *See* 37 C.F.R. § 41.37(c)(1)(vii). Only those arguments actually made by Appellant have been considered in this decision. Arguments that Appellant did not make in the Briefs have not been considered and are deemed to be waived. *See id.*

ISSUE

With respect to independent claim 1, Appellant argues that Makishima and Obradovich do not teach or suggest "transmitting in real time image data generated by the image processing unit to a remotely-located file storage device having a memory via the wireless access to the Internet," as claimed. (App. Br. 4-8.) According to Appellant, "*Obradovich* makes absolutely no

mention of providing real time audio/visual data for transmission in real time for remote storage" (Reply Br. 2) and instead "*Obradovich* teaches that digital images are synchronized in real-time with audio data, to provide real-time audio/visual data" (Reply Br. 2). Appellant makes similar arguments with respect to the similar limitation recited by independent claim 11. (App. Br. 8-10.)

The Examiner states that "*Makishima* differs from claim 1 in that although he teaches transmitting [an] image stored in memory to a remotely located file storage device (abstract), he does not specifically teach transmitting in real time image data generated by the image processing unit to a remotely located file storage device." (Ans. 4.) However, the Examiner finds that *Obradovich* cures this deficiency by teaching a mobile device with a camera that is "capable of capturing [an] image that can be stored locally or transmitted in real time to a remotely located storage device (105, fig. 1; fig. 13; paragraph: 0082)." (Ans. 4.)

Appellant's arguments present the following issue:

Has Appellant shown that the Examiner erred in rejecting the claims under 35 U.S.C. § 103(a)?

The resolution of this issue turns on whether the applied references teach or suggest "transmitting in real time image data generated by the image processing unit to a remotely-located file storage device having a memory via the wireless access to the Internet."

FINDINGS OF FACT

The record supports the following findings of fact (FF) by a preponderance of the evidence.

1. Makishima describes a picture data transfer system that prevents the memory capacity of a digital camera from becoming full by transferring picture data using a portable telephone whenever the memory reaches a predefined capacity. (Abstract.) For example, a user selects a "picture preservation service" to instruct the transfer of picture data stored in the memory of a digital camera 10 to a server 16 through a communication terminal 12. (Abstract; Fig. 1.) The memory is then erased after the transfer. (Abstract.)
2. Obradovich describes using a server to collect and organize information for mobile device users. (Abstract; Figs. 1, 13.)

Referring to Figures 1 and 13, paragraph [0082] of Obradovich states:

Digital camera 460 is also included in PCD [Personal Communication Device] 120. Camera 460 is capable of capturing an image that can then be stored locally or transmitted to server 105 for storage in a selected user profile, e.g., vacation profile, or for transmission over Internet 170 to another party. Camera 460 may also transmit digital images synchronized with audio data to provide real-time audio/visual data or may transmit audio data sequentially with digital images. Images from camera 460 may further be integrated with additional information items, such as real-time clock or GPS time/positional data to provide time/location tagging of an image. Such time/position tagging may be used to authenticate the image.

PRINCIPLES OF LAW

All timely filed evidence and properly presented arguments are considered by the Board in resolving an obviousness issue on appeal. *See In re Piasecki*, 745 F.2d 1468, 1472 (Fed. Cir. 1984).

"Section 103 forbids issuance of a patent when 'the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.'" *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). In *KSR*, the Supreme Court reaffirmed that "[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *Id.* at 416.

During examination of a patent application, a claim is given its broadest reasonable construction consistent with the specification. *In re Prater*, 415 F.2d 1393, 1404-05 (CCPA 1969). "[T]he words of a claim 'are generally given their ordinary and customary meaning.'" *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc) (internal citations omitted). The "ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application." *Id.* at 1313.

ANALYSIS

§ 103 Rejection - Makishima / Obradovich

Appellant's arguments that the Examiner erred in rejecting claim 1 as being obvious over Makishima and Obradovich are not persuasive.

Initially, we note that the claim term "in real time" is quite broad. The ordinary meaning of "in real time" is "performed or occurring in response to a process or event and virtually simultaneously with it." *Oxford English Dictionary Online*, available at http://dictionary.oed.com/cgi/entry/20009363?single=1&query_type=word&queryword=real+time&first=1&max_to_show=10 (last visited September 1, 2009). Appellant does not point to any special meaning attributed to this term in the Specification that would require a different interpretation.

We agree with the Examiner (Ans. 10-12) that, by teaching that the camera 460 can store images locally *or* transmit them to the server 105 for storage (FF 2), Obradovich teaches or, at the very least, strongly suggests that the images are transmitted in real time (i.e., transmitted virtually simultaneously) to the server 105 when they are not stored locally. In addition, we agree with the Examiner (Ans. 10-12) that the teaching in Obradovich that the camera can "transmit digital images synchronized with audio data to provide real-time audio/visual data" (FF 2) further buttresses the conclusion that Obradovich teaches or strongly suggests transmitting images in real time. Contrary to the position of Appellant, we do not read Obradovich as narrowly teaching just the real time synchronization of image and audio data. Obradovich states that the camera transmits synchronized image and audio data "to *provide* real-time audio/visual data." (FF 2 (emphasis added)) Appellant has not explained, and we do not see, how real time audio/visual data could be provided if they were not also transmitted in real time. If the audio/visual data instead was stored and provided at a later time, they would no longer be real time data (i.e., they would no longer be provided virtually simultaneously with the event depicted by the data).

Therefore, Appellant has not shown that the Examiner erred in finding that Makishima and Obradovich teaches or suggests "transmitting in real time image data generated by the image processing unit to a remotely-located file storage device having a memory via the wireless access to the Internet."

Accordingly, we conclude that Appellant has not shown that the Examiner erred in rejecting independent claim 1 under 35 U.S.C. § 103(a). Appellant stated that claims 4-6 stand or fall together with claim 1 (App. Br. 10), and thus they fall together with claim 1.

§ 103 Rejections - Makishima / Obradovich / Fukuda

Claims 2, 3:

Appellant stated that claims 2 and 3 stand or fall together with claim 1 (App. Br. 11), and thus they fall together with claim 1.

Claims 11-14:

Appellant's arguments that the Examiner erred in rejecting independent claim 11 as being obvious over Makishima, Obradovich, and Fukuda are not persuasive.

Similar to independent claim 1, independent claim 11 recites a base station that "transmits in real time image data from the mobile communication terminal to the file storage device." And for reasons similar to those discussed with respect to claim 1, Appellant has not shown that the Examiner erred in finding that Makishima, Obradovich, and Fukuda teaches or suggests this limitation.

Accordingly, we conclude that Appellant has not shown that the Examiner erred in rejecting claim 11 under 35 U.S.C. § 103(a).

Appellant stated that claims 12-14 stand or fall together with claim 11 (App. Br. 11), and thus they fall together with claim 11.

§ 103 Rejection - Makishima / Obradovich / Sellen

Appellant stated that claims 7-10 stand or fall together with claim 1 (App. Br. 11), and thus they fall together with claim 1.

CONCLUSION

Based on the findings of facts and analysis above, we conclude that Appellant has not shown that the Examiner erred in rejecting claims 1-14.

DECISION

The rejection of claims 1-14 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

Appeal 2008-004259
Application 10/757,899

MAT

The Farrell Law Firm P.C.
333 Earle Ovington Boulevard
Suite 701
Uniondale, NY 11553